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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,009	11/09/2001	Henry J. Halverson	102167-200	5016

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ALBERTA A. VITALE
INTELLECTUAL PROPERTY LAW SECTION
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NEW HAVEN, CT 06508-1832

EXAMINER

TUDOR, HAROLD JAY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application <u>10/010,009</u>	Applicant(s) <u>Halverson</u>	
Examiner <u>Tuder, H.J.</u>	Art Unit <u>3641</u>	Confirmation No.

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 12-17-02
- ☐ This action is **FINAL**. ☒ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in this application.
- Of the above claim(s) 1-23 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 24-27 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on _____ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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1. Applicant has elected with traverse the invention of Group II and species B, Fig. 8. Claims 24-27 read on the elected invention. Claims 1-23, drawn to the non-elected inventions have been withdrawn from consideration in accordance with 37 CFR 1.142(b).

2. Applicant's remarks pertaining to the restriction requirement and the election of species requirement have been carefully considered. However, the examination and search of four distinct inventions can not be made without serious burden. Therefore, the restriction requirement and the election requirement are deemed to be proper and are made FINAL.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no positive antecedent basis in the specification for the percentages of tin, tungsten and tungsten-filled polymer, and for the weight of the bullet.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

L Number	Hits	Search Text	DB	Time stamp
1	39425	projectile or bullet	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 10:26
2	26568	tungsten and tin	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 10:26
3	166	(projectile or bullet) and (tungsten and tin)	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 09:32
4	4806	tungsten and tin	USOCR	2003/01/22 10:27
5	13387	projectile or bullet	USOCR	2003/01/22 10:27
6	36	(tungsten and tin) and (projectile or bullet)	USOCR	2003/01/22 10:27

L Number	Hits	Search Text	DB	Time stamp
1	35515	projectile or bullet	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 14:58
2	39425	projectile or bullet	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 15:09
3	661	(projectile or bullet) and tin	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 15:09
4	13387	projectile or bullet	USOCR	2003/01/22 15:09
5	1257	(projectile or bullet) and tin	USOCR	2003/01/22 15:09
6	310	((projectile or bullet) and tin) and 102/\$.ccls.	USOCR	2003/01/22 15:10

L Number	Hits	Search Text	DB	Time stamp
1	35515	projectile or bullet	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 14:58
2	39425	projectile or bullet	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM TDB	2003/01/22 15:09
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4	13387	projectile or bullet	USOCR	2003/01/22 15:09
5	1257	(projectile or bullet) and tin	USOCR	2003/01/22 15:09
6	310	((projectile or bullet) and tin) and 102/\$.ccls.	USOCR	2003/01/22 15:09

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 25 is a functional claim which does not recite specific structure of the bullet which will perform the claimed function.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 24 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Beal 5,847,313. Beal discloses a jacketed bullet comprising a copper jacket 47, a tin first core 51 and a tungsten second core 49.

9. Claim 24 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by either Vaughn et al or Beal 6,371,029. Vaughn et al disclose a jacketed bullet comprising a copper alloy jacket 15, a tin first core 10 and a tungsten second core 13. Beal discloses a jacketed bullet comprising a copper jacket 14, a tin first core 32 and a tungsten second core 24.

10. Claim 25, as far as it can be understood because of its indefiniteness, and claim 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Beal 5,847,313, Beal 6,371,029 B2 or Vaughn et al. References are applied as above. It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to vary the characteristics of the bullet to achieve a desired result.

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Beal 5,847,313, Beal 6,371,029 B2 or Vaughn et al in view of Mravic et al. Beal 5,847,313, Beal 6,371,029 B2 and Vaughn et al are applied as above. However, they do not disclose a tungsten-filled polymer core. Mravic et al teach a tungsten-filled polymer core to be an art recognized equivalent core for a bullet. To substitute a tungsten-filled polymer core for the tungsten core in either the Beal 5,847,313 bullet, the Beal 6,371,029 B2 bullet or the Vaughn et al bullet, as taught by Mravic et al, would have been obvious to one having ordinary skill in the art at the time the invention was made.

12. LeBlanc, Beal 6,457,417, Beal 2002/017416, Beal 2002/0184995 and PCT WO 00/73728 are cited as being of interest in that they disclose composite bullets.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold J. Tudor, whose telephone number is (703) 306-4172.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198. The fax phone number for this Group is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

A handwritten signature in cursive script, appearing to read "Harold J. Tudor".

HAROLD J. TUDOR
PRIMARY EXAMINER